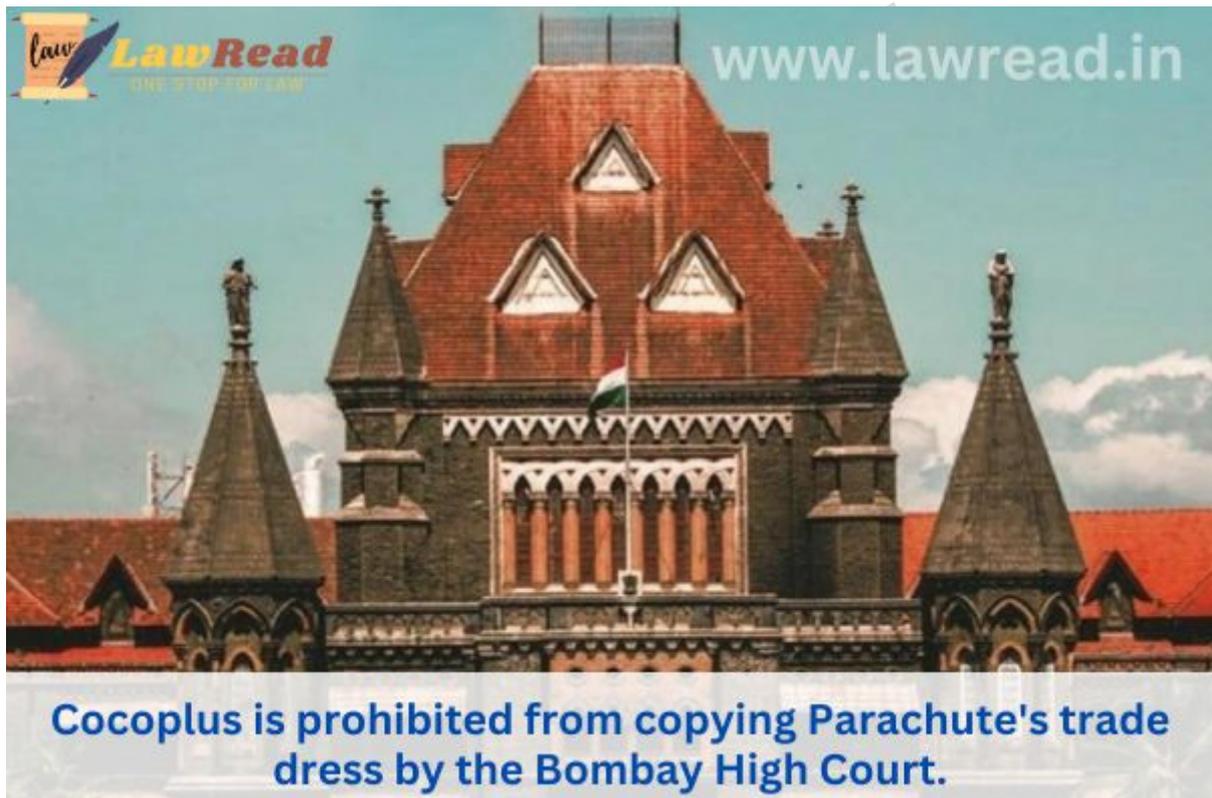


News

Cocoplus is prohibited from copying Parachute's trade dress by the Bombay High Court.



Cocoplus is prohibited by the order from imitating Parachute's bottle form, color scheme, and design aspects.

Zee Hygiene Products was prohibited by the Bombay High Court on Wednesday from using labels, trade dress, and packaging that were determined to be first misleadingly similar to those used by Marico Limited's Parachute brand. [**Zee Hygiene Products Pvt Ltd v. Marico Limited**]

The Zee's Cocoplus line of hair oils is prohibited by the court's temporary order from imitating Parachute's unique visual identity, particularly the bottle's form, color scheme, and design components.

'Prima facie' infringement was noted by **Justice Sharmila Deshmukh**. The Court noted that the defendants had started using a trade dress that was "structurally and visually similar" to the plaintiff's goods.

"When comparing the Defendant's product to the Plaintiff's, it is immediately apparent that the Defendant has faithfully imitated the Plaintiff's trademark by using the flag device featuring the coconut tree, two broken coconuts with coconut water dripping from them, and the distinctive blue, green, and white color combination to get as close to the Plaintiff's mark as possible."

Marico filed the lawsuit, claiming that its copyrighted artistic works and registered trademarks were being violated. The defendant's sale of Cocoplus oils, which purportedly imitated Marico's branding, bottle form, and packaging, set off the dispute.

Zee Hygiene argued that Cocoplus was a trademark that was independently registered and has been used since 2005. They said that their branding was unique and that any similarity was either accidental or the result of generic components used in the industry.

In response, Marico's attorney said that Zee had purposefully chosen visual features that were exactly the same as those used by Marico, rather than using its registered mark. He maintained that the defendants' mark was deceptive and therefore ineligible for Trade Marks Act protection.

The Court noted that the defendant's registered device mark was not what it actually utilized as a trademark. It was determined that the defendant's use of the image of two smashed coconuts with oil dripping out as part of its mark was misleadingly similar to the plaintiff's trademark, a departure from the defendant's registered mark.

The claim that the duplicated elements—like the cracked coconut, color scheme, and bottle shape—were generic was also dismissed. The Court emphasized, drawing on prior rulings, that the typical consumer's total visual impression is used to determine infringement.

"The phrase "likely to deceive" is undoubtedly a matter of first impression, and the defendant's purpose need not be demonstrated. A strong visual appeal forms the basis of the test. Accordingly, the Plaintiff's word marks, device marks, labels, packaging, and trade dress are structurally and aesthetically comparable to the Defendant's.

The Court granted temporary remedy because it believed that the defendants' use of the mark and trade dress was dishonest and would likely confuse consumers and dilute Marico's reputation.

To give the defendants time to file an appeal, a four-week delay on the order's implementation was granted.

Marico was represented by attorneys Hiren Kamod, Nishad Nadkarni, Aasif Navodia, Khusbhoo Jhunjhunwala, Jaanvi Chopra, and Rakshita Singh.

Zee Hygiene was represented by advocate Harsh Desai.

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